

GOVERNMENT OF ANDHRA PRADESH  
ABSTRACT

REVISION PETITIONS – Revision Petition filed by the President, AP.NGO's (Gachibowly) MACHS Ltd., against the orders of Joint Collector, Rangareddy District in his Procdgs. No.E1/7121/2007, dated 24-11-2008, with regard to the land to an extent of Ac.10.00 in Sy.No.36/AA25 at Gopannapalli Village, Serilingampalli Mandal – Allowed – Orders – Issued.

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REVENUE (ASSIGNMENT-V) DEPARTMENT

G.O.Ms.No.421,

Dated: 03-07-2012.

Read the following:-

- 1) Revision Petition dated 5.5.2009 filed by President, APNGO's (Gachibowly) MACHS Ltd.
- 2) Govt.Memo.No.18057/Assn.V(1)/2009, dated 22-5-2009 & 22-6-2009.
- 3) From the Collector, Rangareddy District, Letter No.E1/5371/2009, dated 23-09-2009.
- 4) Govt.Memo.No.18057/Asn.V(1)/2009, dated 16-10-2009, 6-11-2009 & 13-07-2011, 23-7-2011, 1-8-2011 & 26-8-2011.

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In the reference 1<sup>st</sup> read above, Sri V.Gopal Reddy, President, APNGO's (Gachibowly) MACHS Ltd., has filed Revision Petition before the Government against the orders of Joint Collector, Rangareddy, issued in Procdgs.No.E1/7121/2007, dated 24-11-2008, vide Government Memo.No.18057/Assn.V(1)/2009, dated 22-5-2009, u/s 4 (B) of A.P.Assigned Lands (POT) Act, 1977.

2. On the filing of Revision Petition by the President, APNGO's (Gachibowly) MACHS Ltd., the Government have stayed the orders of the Joint Collector, Rangareddy District, issued in Procdgs.No.E1/7121/2007, dated 24-11-2008, vide Government Memo. No.18057/Assn.V(1)/2009, dated 22-5-2009, and called for original records, for further examination, and for conducting hearings.

3. Accordingly, the original records have been obtained from the Collector, Rangareddy District, and after examining the records, the following have been noticed.

4. During the inspection of the Government Land in Sy.No.36 by the Deputy Collector & MRO, Serilingmapally, it was found that certain assignees are not in possession of the land and the assignees have executed the sale in the said land. The Deputy Collector & MRO has issued a notice under Section 4(1)(a) of A.P.Assigned Land (POT) Act, 1977, for resuming the land which was recorded in the name of assignee, i.e., Babu Rao Joshi, under the custody of Government vide his Proc.No.B/2545/2003, dated 16-01-2004.

5. Aggrieved by the above Notice, Sri Laksh Kanthaiah. S/o Narayana, has filed Appeal before the RDO, Chevella, against the orders of Dy.Collector & MRO, Serilingmapally U/S 4(a) of A.P.Assigned Land (POT) Act, 1977. The Spl.Grade Dy.Collector & RDO Chevella Division has observed that it is clearly evident that the assignees have violated the provisions of assignment conditions, as they have transferred the assigned land. "Any transfer or acquisition made in contravention of the provisions of sub section (1) or section (2) shall be deemed to be null and void". Moreover the land is not under cultivation. The RDO has dismissed the appeal on the ground that is no valid reason to interfere with the orders of the DC & Tahsildar, Serilingmapally Mandal, vide Procdgs.No.D/1515/2007, dated 17-10-2007.

6. Aggrieved by the above orders, Sri M.Lakshmi Kanthaiah has filed Revision Petition before the Joint Collector, Rangareddy District. The Joint Collector, Rangareddy District has observed that the land in Sy.No.36/A/23, extent of Ac.10.00 gts., of Gopanpally Village, Serilingmapally Mandal has been transferred from late Babu Rao Joshi, pursuant to his demise and mutated in the names of Arun Kumar, S/o Babu Rao Joshi, Kum. Kamala Bai, D/o Babu Rao Joshi & Shobha Bai, W/o Babu Rao Joshi, the legal heirs of late Babu Rao Joshi, vide Tahsildar, Hyderabad (West) Taluq, Proceedings dated 16-02-1968. Further, the

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Joint Collector, Rangareddy, has opined that as per the orders issued in G.O.Ms.No.1743, Revenue Department, dated 28-08-1969 the lands assigned in favour of the Freedom Fighters / Political Sufferers are alienable without any conditions. Pursuant to the provisions of the said Government orders, the legal heirs of the assignee have alienated the assigned land in favour of 3<sup>rd</sup> parties vide Registered Sale Deed No.1546/1980, and the said property has been subsequently transferred to different individuals vide Registered Sale Deeds. In the instance case the revision petitioner, i.e., Sri M.Lakshmikanthaiah, is a GPA holder executed by Sri V.Gourinath, who have purchased the said land from the legal heirs of the assignee and the MRO, Serilingmapally Mandal without verifying the said aspect has initiated action under the provisions of Act IX of 1977 and passed orders. The RDO, Chevella Division has also not appreciated the above facts and confirmed the orders of the MRO, Serilingmapally Mandal. The Joint Collector has allowed the revision petition concluding that as there are no merits in the orders passed by the Spl.Dy.Collector and RDO, Chevella vide Procdgs.No.D/1515/2007, dated 17-10-2007, wherein, confirmed the orders passed by the Dy.Collector & Tahsildar, Serilingmapally Mandal vide Proc.No.B/2545/2003, dated 16.01.2004.

7. Subsequently, President, APNGOs (Gachibouly) MACHS Ltd., has filed Revision Petition before the Government and obtained Stay orders on the proceeding of the Joint Collector, Rangareddy District.

8. Aggrieved by the above, Sri M.Lakshmi Kanthaiah filed Writ Petition in WP No.10926/2009 before the Hon'ble High Court, and the High Court of A.P. in its order dated 2-6-2009 while disposing the case has observed that the first respondent shall dispose of the revision in accordance with Law on the basis of the material on record, as expeditiously as possible.

9. Later, hearings have been conducted on several dates duly providing opportunity to the Petitioners as well as Respondents. During the course of hearings learned Counsels for the Petitioner as well as Respondents made arguments in support of their claim and the arguments have been recorded. The contention of the Revision Petition is hereunder:

10. **The Counsel for the Petitioner** has stated that the petitioner Society is a registered Society under the provisions of APMACS Act, 1995, and the society was formed in terms of the policy decision taken by the Government vide G.O,Ms.416, dated 18.3.2003. The petitioner Society consists of Non-Gazetted Employees as its members. He has also stated that the Government in the year, 2004 have given advance possession through Apex Society to an extent of Ac.142.15 gts., in Sy.No.36 and Ac.51.24 gts in Sy.No.37, and the petitioner Society was put in possession of the same. The Petitioner Society has spent considerable amount of money and labour for making it fit for the purpose of house sites.

11. The Counsel for the Petitioner has also stated the respondent 4, i.e., Sri M.Lakshmi Kanthaiah, herein (third party) started interfering with the possession and enjoyment of the land of the petitioner society by contending that he is the owner of the land admeasuring Ac.10.00 in Sy.No.36 having purchased the same under an agreement of Sale-cum-GPA, dated 15.6.1995 from one Sri V.Gourinadh, and further revealed that he got the favourable orders from the first respondent, i.e., the Joint Collector, dated 24.11.2008.

12. The Counsel for the petitioner has further stated that as per the records obtained in connection with the above said order dated 24.11.2008 reveals that one Sri Baburao Joshi was assigned an extent of Ac.10.00 of land in Sy.No.36 along with other persons and the Loani Izafa was granted through faisal patti during the year 1961-62 and that subsequently during the inspection when it was found that the original assignee Baburao Joshi was not in possession of the land and that the assignees executed sale deeds in respect of the assigned land in favour of Shaik Shafique Ahmed on 5.6.1980 in contravention of the provisions of A.P. Assigned Land (POT) Act, 1977, and hence, the 3<sup>rd</sup> respondent, i.e., the Tahsildar, has resumed the land. An appeal filed before 2<sup>nd</sup> respondent, i.e. RDO, Chevella Division by the respondent 4, i.e. Sri M.Lakshmi Kanthaiah, and the same was dismissed.

13. He has also stated that the respondent No.1, i.e. the Joint Collector-I, Rangareddy District, vide his impugned order dated 24.11.2008, allowed the said revision petition filed by the 4<sup>th</sup> respondent, i.e. Sri M.Lakshmi Kanthaiah, and set aside the orders passed by the 2<sup>nd</sup> respondent, i.e., the RDO, Chevella Division. Accordingly the present revision petition filed before the Government, u/s 4-B of the A.P. Assigned Land (POT) Act, 1977 with the following grounds:

- a) *Though the 4<sup>th</sup> respondent i.e. Sri. M.Laxmikantaiah has filed a revision petition u/s158 of A.P. Land Revenue Act, 1317 F, the first respondent i.e Joint Collector treated the same under section 4 B of A.P.Assigned Lands (POT) act,1977 and disposed of the same.*
- b) *As per section 4A(2) of the Act, any person aggrieved by an order passed by the RDO under subsection of section 4 may within 90 days from the date of receipt by him of such order appeal to the Collector. As per section 4B of the Act, the District Collector may in respect of any proceedings not being a proceeding covered by subsection (2) of section 4 A, on an application made to him and the government in respect of any proceedings either suo motto or an application , can call for and examine the record of any officer subordinate to them to satisfy himself or themselves as to the regularities of such proceedings or correctness of legalities or propriety of any decision or order taken or passed therein and if in any case it appears to the Collector or as the case may be to the Government that any such decision or order should be modified annulled, reversed or remitted for reconsideration, they may pass orders accordingly. As per section 4 B(2), no order adversely affecting any person shall be passed under subsection (1) unless such person has been given an opportunity of making his representation.*
- c) *The respondent No.1, i.e. the Joint Collector-I, Rangareddy District, is well aware of the fact that the land in Sy.No.36 and 37 was given to the petitioner society and the above said other societies and that they are in possession of the same. Hence the respondent No.1, i.e. the Joint Collector-I, Rangareddy District, is not justified in law in entertaining the revision filed by the 4<sup>th</sup> respondent, i.e. Sri M.Lakshmi Kanthaiah, and passing orders u/s 4B of the Act adversely affecting the rights of the petitioner society without affording an opportunity of being heard or making its representation. On this ground alone, the impugned order of the first respondent dated 24.11.2008 is to be aside.*
- d) *Without there being an iota of evidence on record to show that the land was assigned to late Sri Baburao Joshi under the Freedom fighters quota or political sufferers quota as the case can be the Joint Collector-I Rangareddy District / first respondent has committed grave illegality in holding that there are no merits in the orders passed by the respondent Nos.2 & 3, i.e., the RDO, Chevella Division and the Tahsildar, Serilingampally, dated 17.10.2007 and 16.01.2004 respectively.*
- e) *The first respondent ought to have seen that he has no locus standi to file the revision petition as he is not the legal heir of the original assignee, owner of the property and the possessor of the same.*
- f) *By passing the impugned order, the respondent No.1, i.e. the Joint Collector-I, Rangareddy District, has defeated the very noble intension of enactment of A.P.Assigned Lands (Prohibition of Transfers) Act, 1977.*
- g) *The first respondent ought to have seen that there is no clinching evidence that the original assignee Baburao Joshi was a freedom fighter / political sufferer and even if he is so, since the land is not assigned to him under the freedom fighter's quota, the provisions of A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 would apply and accordingly, the respondent No.3, i.e., the Tahsildar, Serilingampally, has rightly invoked the powers under the Said Act for resumption of the land which is rightly confirmed by the second respondent, i.e., the RDO, Chevella Division..*

14. Finally Counsel for the petitioner has requested the Government to set aside the orders passed by the first respondent, i.e. joint Collector, Rangareddy District in Proceedings No.E1/7121/2007, dated 24-11-2008 and pass such other order/orders in the interest of justice. Hence he has filed Revision Petition, and obtained Stay Orders.

15. **The Counsel for the Respondent** has stated that the Revision Petitioners who have questioned the orders u/s 77 of A.P.Co-Operative Societies Act, 1964, cannot be aggrieved by the proceedings issued by the Joint Collector-I, Rangareddy District in his Proceedings No.E1/7121/2007, dated 24-11-2008. The contention of the Petitioner is that the Government has reserved an extent of 400 acres in Sy.No.36 & 37 of Gopanapally (V), for providing house sites to the Government Employees vide G.O.Ms.No.589, Revenue (Assn.III) Department, dated 10-7-1991, and subsequently G.O.Ms.No.850, Revenue (Assn.III) Department, dated 24-9-1991 was issued reserving an extent of 437 acres is not

known to the Respondent, i.e., the APNGOs (Gachibouly) MACHS Ltd., and no copies of those Government Orders were even filed along with the Revision Petition. The total extent of Sy.No.36 & 37 are also not mentioned in the Revision Petition, so as to verify as to whether Ac.437.00 gts. of land is available with the Government in Sy.No.36 & 37 of Gopannapally Village. The Government can allot a land if the land is only available for allotment or assignment. When the land for allotment is not available, the Government cannot assign or allot the land which is already assigned to the Predecessor of the Respondents. The contention of the Petitioner is that land was handed over land to an extent of Ac.142.15 gts. in Sy.No.36 and Ac.51.24 gts. of land in Sy.No.37 and that Sri M.Lakshmi Kanthaiah through GPA holder started interfering with the possession of the APNGO's (Gachibouly) MACHS Ltd., is false. The land to an extent of 10 acres in Sy.No.36 was assigned to Freedom Fighter by name Babu Rao Joshi.

16. Thus, when the land to an extent of 10 acres of land is already assigned to Babu Rao Joshi who was a Political sufferer, who participated in Independence Movement and underwent imprisonment, the Government cannot assign the same land to any person including the APNGO's (Gachibouly) MACHS Ltd., even if it is on the basis of policy decision of the Government to provide house site to their employees. Though it is laudable policy, the Government without verifying and without seeking as to whether the land is assigned to some others earlier cannot assign the land to the said Society, and the Society will not get any right over the said land. As per the Revenue Records, it is very clear that the land is in possession of 'Sri Babu Rao Joshi since its assignment of 1961 as per the Seshala Pahani Patrika of Gopannapalli Village, Serilingampally Mandal, the land in Sy.No.36/AA is 415.07 acres which is classified as 'Sarkari' as seen from the Pahani Patrikas of 1962 & 1963, Sy.No.36/AA 23 admeasuring 10 acres is in possession of Babu Rao Joshi who has been given patta by the Government, as he is a political sufferer and after the death of Babu Rao Joshi, his son by name Arun Kunar vide proceedings dated 16-2-1968 has succeeded to the property, and his name is also mutated in Phani Patrikas also right from 1971 onwards. From 1985-86 onwards the sub No.36/AA23 has been changed to 36/AA25 and subsequently, it has been re-numbered as Sy.No.36/20. Thus the Government without verifying the Revenue Records, which are being maintained by its officials at Mandal level, would not have included the land assigned to Babu Rao Joshi. Thus the Revision Petitioner without showing any documentary proof stating that the Sy.No.36/AA25 is assigned to the Society, cannot claim any right over land which is originally allotted to Babu Rao Joshi vide file No.A6/5456/61. The Petitioners do not have any locus standi to either question the impugned order under Revision or question the assignment of land to Babu Rao Joshi at this length of time on the ground that he is not a political sufferer by filing an un-authenticated certificate alleged to have been obtained by the Superintendent of Aurangabad Central Prison.

17. The contention of the Revision Petitioner, that the 1<sup>st</sup> respondent, i.e. the Joint Collector-I, Rangareddy District, is well aware of the fact that the land in Sy.No.36 & 37 were given to the petitioner society and that he should not have entertained the revision itself is not tenable, as the 1<sup>st</sup> respondent, i.e. the Joint Collector-I, Rangareddy District, is not expected to keep every assignment in all the survey numbers in his mind while dealing with the cases filed before him. This respondent has every right to agitate his rights in the forum available to him, and the authority has to decide the case on its own merits and not on the basis of the facts which were not borne on record of that case. No notice can be expected to be given to persons who are not the parties to the case, that too on the basis of the alleged personal knowledge of the 1<sup>st</sup> respondent, i.e. the Joint Collector-I, Rangareddy District. As such the plea that the revision ought not to have been entertained by the 1<sup>st</sup> respondent, i.e. the Joint Collector-I, Rangareddy District, is not enable in law.

18. The contention of the Revision Petitioner that the 4<sup>th</sup> respondent, i.e., Sri M.Lakshmi Kanthaiah, should have shown that the land is assigned to the Political Sufferer under political sufferer quota, is not tenable, as the resumption, by pasting notice on the land is made on the admitted facts that the land is assigned to Mr.Babu Rao Joshi, under political sufferer quota and that he and his son have sold the land when it is not alienable. Thus no evidence is necessary to prove the admitted facts. In fact the person, to whom the land is assigned way back in 1961, is not more and his son has admittedly sold away the land to one Shaik Shaffiq Ahmed, through Registered Doc. No.1545/1980, dated 15-6-1980, through

a registered public document. In fact as per the Government Orders which were in vogue, the land assigned to the political sufferers is alienable, as such, there is no bar for the sale. In fact the land is assigned under BSO and not under APAL (POT) Act. No notice need to be given to the persons, who do not have any subsisting title, and as per Law notice has to be given to the persons who have subsisting title. As the notice was not issued and served upon the person who was having title as on the date of resumption, the order of resumption was rightly set aside by the 1<sup>st</sup> respondent, i.e. the Joint Collector-I, Rangareddy District. When the order impugned in the Revision before the 1<sup>st</sup> respondent, i.e. the Joint Collector-I, Rangareddy District, itself is not as per Law, the 1<sup>st</sup> respondent, i.e. the Joint Collector-I, Rangareddy District, has rightly set aside the same.

19. As stated Supra when the petitioners are not able to show that the land which is originally assigned to Babu Rao Joshi, is assigned to the Society, they are not aggrieved or interested parties, so as to maintain a revision against the orders of the 1<sup>st</sup> respondent. Thus, the revision itself is liable to be dismissed. As per the settled Law, settled things cannot be unsettled at the whims and fancies of some persons, that too after lapse of more than 44 years and requested to dismiss the revision petition in the interest of justice.

20. The perusal of the records, reveals that the Dy.Collector & Tahsildar, Serilingampalli initiated an enquiry under provisions of the POT Act after it came into their knowledge that the land was sold away by the assignee to a third party in the year 1980 and subsequent sales thereon. After verifying the revenue records of the village Gopanapalli and after giving ample opportunity to Sri K.Lakshmi Kanthaiah, Respondent, who is successor in the title, the Dy.Collector & MRO, Serilingampalli has passed orders u/s 3(2) of the POT Act resuming the land to the Government vide orders dated 16-1-2004. The orders passed by the MRO, Serilingampalli were confirmed by the RDO, Chevella Division in the Revision Petition filed by the respondent herein u/s 4(1) of the POT Act, vide orders dated 17-10-2007.

21. In the second revision filed by the respondent herein before the Joint Collector, Rangareddy District u/s 4(B) of the POT Act, the Joint Collector set aside the orders passed by the lower authorities and restored the possession of the land to the respondents herein holding that there is no bar and no permission is required to sell the land in terms of the orders of the Government issued in G.O.Ms.No.1743, Revenue Department, dated 28.8.1959 vide his orders dated 24.11.2008.

22. The issue involved in the matter whether the sale made by Sri Arun Kumar Joshi, S/o Babu Rao Joshi (original assignee) is valid or not under the relevant laws prevailing at the time of sale of the land during 1980.

23. The Government have formulated assignment of lands policy vide G.O.Ms.No.1142, Revenue Department, dated 18-6-1954. According to the provisions of para-5 of the Order, the land assigned is heritable but not alienable and the assignee should have brought the land under cultivation within three years from the date of assignment and the cultivation should be by self or family members or with hired labour. The land so assigned can be resumed for violation of these conditions.

24. The following facts are very clear after scrutiny of records:-

- (1) The revenue records have not recorded anywhere that this assignment pertains to Political Sufferer Category.
- (2) There are no records / registers in the Tahsildar's Office to establish that this assignment was made in favour of political sufferer.
- (3) Even the Respondent No.4 (Sri Lakshmi Kanthaiah) has failed to produce the original land assignment records to prove the claim on behalf of the political sufferer.
- (4) No conclusive proof has been provided that Sri Babu Rao Joshi is a freedom fighter / political sufferer and he has got the assignment under this category.

25. In the absence of the same, it has to be concluded that the Assignment was made under general Category, and as such the sale transaction made is void under violation of POT Act, 1977. Hence, I do not find any merits for disallowing the orders passed by the Deputy Collector & MRO, Serilingampalli, dated 16-1-2004, resuming the land under the custody of the Government, and the confirmation orders of the RDO, Chevella Division, dated 17-10-2007, passed in favour of APNGOs (Gachibowli) MACHS Ltd., and the orders passed by the Joint Collector, in his Proceedings No.E1/7121/2007, dated 24-11-2008, are quashed, duly upholding the orders passed by the Deputy Collector & MRO, Serilingampalli in his Proceedings No.B/2545/2003, dated 16-1-2004, and as supported by the Special Grade Deputy Collector & RDO, Chevella, vide his Proceedings No.D/1515/2007, dated 17-10-2007.

26. The Collector, Rangareddy District, is therefore, directed to take physical possession of the land for giving subsequent possession to the Revision Petitioner.

27. The Revision Petition is disposed of accordingly.

( BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH )

ANIL CHANDRA PUNETHA  
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Collector, Rangareddy District.

The Joint Collector-I, Rangareddy District.

The Revenue Divisional Officer, Chevella Division, Rangareddy District.

The Tahsildar, (Dy.Collector), Serilingampally Mandal, Rangareddy District.

The President, APNGO's (Gachibowli) MACHS Ltd., through his Counsel Sri D.Seshadri Naidu & another, Advocates, Plot No.118, Flat No.401, Road No.71, G.S.Archean, Navanirman Nagar, Jubilee Hills, Hyderabad

The Sri M.Lakshmikanthaiah, S/o Narayana, through his Counsel Sri B.Sudhakar Reddy & another, Advocates, MIG-II, B-9, F-9, Bhaglingampally, Hyderabad-4.

Copy to:

PS/PA to Principal Secretary to Government.

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